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T.R.A. DOCKET ROOM

March 3, 2005

Jean Stone, Hearing Officer  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

Re: *In Re: BellSouth's Motion for the Establishment of a New Performance Assurance Plan*  
Docket Number: 04-00150

Dear Hearing Officer Stone:

This letter is submitted in response to the two letters you have received from BellSouth, one dated February 28, 2005, and the other dated March 2, 2005, in the above-captioned proceeding.

In the first letter, BellSouth reiterates its request that the Hearing Officer issue an order to compel CompSouth to answer discovery questions regarding problems experienced by individual carriers in purchasing wholesale services from BellSouth. CompSouth has objected to that discovery on the grounds that CompSouth, as an association, does not have access to carrier-specific information and, as the TRA has ruled in prior, similar disputes, a trade association is not required to respond to discovery on behalf of individual members or to produce member-specific information which the Association does not have. CompSouth further stated that it did not plan to present evidence in this case based on member-specific information but that, if it did so, BellSouth would have the opportunity to make additional discovery requests.

CompSouth has now filed its direct testimony in which Ms. Sharon Norris describes, among other things, BellSouth's overall performance under the current performance measures plan. Ms. Norris states in her testimony that her information is based on data from BellSouth's "Performance Measurement and Analysis Platform" website which shows, on a month-by-month basis, BellSouth's performance in the aggregate for Tennessee. There is no carrier-specific information in Ms. Norris's testimony nor does she purport to make any statements or arguments on behalf of individual CLECs. Nothing in Ms. Norris's testimony indicates that CompSouth has any such member-specific information or should have to respond to BellSouth's discovery requests for "specific examples" of BellSouth's poor performance. As previously stated, CompSouth cannot produce information it does not have.

To the extent BellSouth asks the Hearing Officer to issue an order compelling CLECs to respond to BellSouth's discovery requests, BellSouth is apparently referring to subpoenas which

BellSouth sent to certain CLECs which are members of CompSouth but are not parties to this case. Each carrier has previously responded that (1) because the CLECs are not parties to this case, BellSouth must make a stronger case to justify the production of the requested information and must compensate the CLECs for their costs of gathering information (2) no party has filed, nor is expected to file, testimony which addresses specific examples of BellSouth's poor performance or CLEC-specific claims for damages and (3) if the TRA decides such information would be helpful in this docket, the agency should request the data from all CLECs affected by the performance measures plan, not just the members of CompSouth. Nothing in BellSouth's February 28 letter addresses any of these arguments or adds anything to the parties' previous filings on these points.

BellSouth's second letter, dated March 2, 2005, states that BellSouth will not file supplementary discovery requests, due on March 4, 2005, because BellSouth has not yet received answers to its first round of discovery. That, of course, is the company's decision to make. CompSouth intends to file supplemental discovery requests in response to BellSouth's direct testimony. Having now received CompSouth's direct testimony, BellSouth is free to do the same. CompSouth witness Sharon Norris describes in her testimony CompSouth's response to BellSouth's proposed performance measures plan, thus responding, in part, to the "contention" interrogatories propounded by BellSouth to CompSouth. As CompSouth further develops its position, it will either file supplemental discovery responses or include the information in its rebuttal testimony. To the extent BellSouth claims it has not received discovery responses from various CLECs, those carriers are not parties to this docket and are not subject to discovery requests. To the extent BellSouth is awaiting responses to its subpoenas, those issues have been previously addressed in this letter.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:



Henry Walker

HW/djc

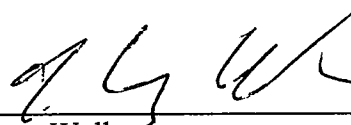
cc: Guy Hicks

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing is being forwarded via U.S. mail, to:

Guy Hicks  
BellSouth Telecommunications, Inc.  
333 Commerce Street, Ste.  
Nashville, TN 37219

on this the 3rd day of March 2005.

  
Henry Walker